S.B. CIVIL MISC. APPEAL NO. 1352/2006
[Smt. Sohni Devi & Anr. Vs. Sita Ram & Ors.]

DATED : 18.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajendra Charan for the appellants.

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By way of this appeal against the award dated 28.06.2005 made by the Motor Accidents Claims Tribunal, Gulabpura in Claim Case No.254/2002 the claimant-appellants seek enhancement over the compensation amount of Rs.1,54,000/- awarded by the Tribunal on account of accidental death of Ramdhani (19 years), daughter of the appellant No. 1 and daughter-in-law of the appellant No. 2.

On 02.08.2002 at about 2.00 p.m., the deceased Ramdhani riding a motorcycle with her husband Satyanarayan was hit by a dumper bearing registration No. RJ 06 G 0307 near village Dhagariya, Police Station Pander; both of them sustained injuries; Ramdhani died on the spot whereas Satyanarayan expired while on way to hospital.

The present appellants claimed compensation on account of accidental death of Ramdhani and the appellant No. 2 Samir Mal, while joining his wife, claimed compensation on account of death of their son Satyanarayan. In relation to Satyanarayan it was alleged that he was engaged in

agriculture, leather work and driving and was earning about Rs. 4000/- per month; whereas estimated income of deceased Ramdhani was alleged at Rs. 3,000/- per month from agriculture and house-hold work.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid dumper bearing registration No. RJ 06 G 0307 and held the respondents liable for compensation. While taking up quantification of compensation in the present claim case No. 254/2002, the Tribunal observed that only the mother of the deceased could be taken as her dependent and not her father-in-law. The Tribunal referred to her age at 19 years only but found it appropriate to award lump sum of Rs. 1,50,000/- towards pecuniary loss. The Tribunal further allowed Rs. 2,000/- towards non-pecuniary loss and Rs. 2,000/- towards funeral expenses; and, therefore, made an award in the sum of Rs. 1,54,000/- in favour of the appellant No. 1, mother of the deceased and also allowed interest @ 6% per annum from the date of filing of claim application. It may be pointed out that by the common award, in the claim case pertaining to demise of Ramdhani's husband Satyanarayan, compensation in the sum of Rs. 2,54,000/- has been allowed in favour of his parents in their claim case No. 255/2002; and a separate appeal preferred by the claimants in relation thereto has already been dismissed by this court.

Learned counsel appearing for the appellants has contended that looking to the age of the deceased the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has erred in awarding interest only at the rate of 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that there is no scope for enhancement in the amount of compensation awarded by the Tribunal and, therefore, this appeal too deserves to be dismissed.

Looking to the overall facts and circumstances of the case, when no definite proof of income of the deceased has been adduced, her notional income could only be taken at about Rs. 15,000/- per annum. In view of the fact that the husband of the deceased also perished in the same accident, in the overall family set up, for the present claimants loss of contribution could not have been taken more than 50% of the notional income and in view of their age at about 45 years, appropriate multiplier could not have been more than 15. Viewed in this light, it is apparent that the amount awarded by the Tribunal remains rather on the higher side. Of course, non-pecuniary loss has been awarded wee bit on lower side but in the ultimate analysis, with the higher figure on loss of contribution the award cannot be said to be falling short of just compensa-

tion. The Tribunal has of course awarded interest only at the rate of 6% per annum but in view of the higher side award made by the Tribunal, such choice of rate of interest does not appear inadequate.

Having regard to the overall facts and circumstances of the case, this Court is clearly of the opinion that the impugned award cannot be said to be low or inadequate so as to warrant any interference in this appeal by the claimants.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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